

## **REMARKS**

Claims 1, 3, 7-11, 18, 20-21, and 34-56 are pending in this application. By this Response, claims 1, 3, 8-11, 18, and 20-21 are amended, claims 2, 4-6, 12-17, 19, and 22-33 are canceled, and claims 34-56 are added. Independent claims 1, 11, and 21 are amended to recite a real time screening signal and a precision screening signal as well as storing the broadcast programming. Claims 1, 11, and 21 are further amended to recite that the RTSS is used when real time presentation of the broadcast programming is performed and the PSS is used with a playback of stored broadcast programming. Independent claims 8 and 9 are amended to recite the RTSS and PSS and that the RTSS is generated based on real time monitoring of the broadcast programming and the PSS is generated based on playback of at least one portion of a recording of the broadcast programming. Support for these amendments may be found at least in Figure 1 and page 24, lines 19-27, for example. Claims 3, 10, 18, and 20 are amended to be consistent with the amendments to their respective independent claims and to correct dependencies where necessary in view of the cancellation of claims. Claim 11 is further amended as suggested by the Office Action to recite that the computer program product has a computer recordable medium with a computer program recorded thereon that, when executed by a computing device, causes the computing device to perform the various recited operations. No new matter has been added by any of the above amendments to the claims. Reconsideration of the claims is respectfully requested in view of the above amendments and the following remarks.

### **I. Telephone Interview**

Applicant thanks the Examiner for the courtesies extended to Applicant's representative during the December 19, 2007 telephone interview. During the telephone interview, the above amendments and the distinctions of the claims over the cited art were discussed. The Examiner suggested some alternative language for "if" clauses, such suggestions being implemented in the above amendments. The Examiner further stated that it should be made clear that the real time monitoring is performed with regard to real

time presentation of the broadcast programming. Again, such suggestions are implemented in the above amendments by reciting that the “RTSS is generated based on real time monitoring of the broadcast programming being presented in real time” (emphasis added). The Examiner agreed that these amendments appear to overcome the rejections set forth in the Office Action. The substance of the telephone interview is summarized in the following remarks.

## **II. Request for Citation of References on PTO-892 Form**

On page 3 of the Office Action, the Examiner cited U.S. Patent Application No. 6,637,029. On page 9, the Examiner cited U.S. Patent Publication No. 2006/0218579. Neither of these references was cited on a PTO-892 form. Applicant respectfully requests that the references be cited on a PTO-892 form with the next communication from the U.S. Patent and Trademark Office.

## **III. Rejection under 35 U.S.C. § 101**

The Office Action rejects claims 11-20 under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter. This rejection is moot with regard to canceled claims 12-17 and 19 and is respectfully traversed with regard to claims 11, 18, and 20.

By this Response, claim 11 is amended to recite “A computer program product for screening broadcast programming, the computer program product having a recordable medium with a computer program recorded thereon, wherein the computer program, when executed by a computing device, causes the computing device to:” (emphasis added). Thus, claim 11 now recites that the computer program product, when executed by a computing device, causes the computing device to perform the various recited operations, as requested by the Office Action on page 3. Thus, Applicant respectfully submits that claims 11, 18, and 20 are directed to statutory subject matter. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 11, 18, and 20 under 35 U.S.C. § 101.

#### IV. Rejection under 35 U.S.C. § 102(e)

The Office Action rejects claims 1-2, 4-16, 20-26, 29-30, and 33 under 35 U.S.C. § 102(e) as being allegedly anticipated by Maissel et al. (U.S. Patent No. 6,637,029). This rejection is moot with regard to canceled claims 2, 4-6, 12-16, 22-26, 29-30, and 33, and is respectfully traversed with regard to the remaining claims.

Claim 1, which is representative of the other rejected independent claims 8, 9, 11, and 21 with regard to similarly recited subject matter, reads as follows:

1. A system for screening broadcast programming, comprising:
  - a viewer configured to receive broadcast programming, to receive commands from a user, to receive commands from an interface coupled to the viewer, to present the received broadcast programming to the user based on commands from the user, and to present the received broadcast programming to the user based on commands from the interface;
  - a processor coupled to the interface and configured to receive a real time screening signal (RTSS) and a precision screening signal (PSS), to receive user input from the interface, to store the received user input, to generate a local action signal based on the user input and at least one of the received RTSS or PSS, and to transmit the local action signal to the interface;
  - the interface configured to receive the local action signal, to transmit commands to the viewer based on the local action signal, and to receive the user input from the user, the user input comprising at least an action preference; and
  - a broadcast recorder coupled to the interface and configured to receive broadcast programming, to store the received broadcast programming, and to transmit the stored broadcast programming to the viewer in response to user commands, wherein the RTSS is generated based on real time monitoring of the broadcast programming being presented in real time, the PSS is generated based on a playback of at least one portion of a recording of the broadcast programming, wherein the processor, in response to the broadcast programming being presented to the user via the viewer in real time, generates the local action signal based on the RTSS, and wherein, in response to the broadcast programming being presented to the user via the viewer as a playback of the stored broadcast programming, the processor generates the local action signal based on the PSS.  
(emphasis added)

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). Applicant respectfully submits that Maissel does not identically show every element of the claimed invention arranged as they are in the claims. Specifically, Maissel does not teach the features of claim 1 emphasized above, or the similar features found in the other rejected independent claims.

Maissel is directed to an intelligent electronic program guide. The mechanism of Maissel receives program schedule information and, based on profile information in a profile storage unit for at least one viewer, the program schedule information is customized to produce a program guide including customized program schedule information. The mechanism of Maissel may determine profile information for a viewer based on viewer behavior (column 4, lines 11-20). The Office Action alleges that this viewer behavior is the same as the claimed screening signals. Applicant respectfully disagrees.

Amended claim 1 recites both a real time screening signal (RTSS) and a precision screening signal. The RTSS is generated based on real time monitoring of broadcast programming being presented in real time. The PSS is generated based on a playback of at least one portion of a recording of broadcast programming. Moreover, the RTSS is used to generate the local action signal/control the presentation in response to the broadcast programming being presented to the user via the viewer in real time. The PSS is used to generate the local action signal/control the presentation in response to the broadcast programming being presented to the user via the viewer as a playback of the stored broadcast programming. Such features are not taught or even suggested by the Maissel reference. There simply is no teaching or suggestion regarding real time screening signals and precision screening signals anywhere in Maissel.

Even if the viewer behavior in Maissel were considered to generally be a screening signal, it does not teach or suggest the specific screening signals, i.e. the RTSS and PSS, recited in claim 1 or the manner by which these RTSS and PSS are used to generate the local action signal/control the presentation of broadcast programming. To the contrary, the viewer behavior in Maissel is the channel of a television broadcast being watched and an identifier of a viewer with this information being accumulated over a period of time (column 11, lines 56-64; column 12, lines 35-45). While such information may be considered to be accumulated in real time, there is no teaching of any PSS information or the use of the RTSS and PSS in the manner specifically recited in claim 1 to present the broadcast programming.

Thus, Applicant respectfully submits that Maissel does not teach each and every feature of independent claims 1, 8, 9, 11, and 21 as is required under 35 U.S.C. § 102(e). At least by virtue of their dependency on claims 1, 9, and 11, respectively, Maissel does not teach each and every feature of dependent claims 7, 10, and 20. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 1, 7-11, and 20-21 under 35 U.S.C. § 102(e).

**V. Rejection under 35 U.S.C. § 103(a)**

The Office Action rejects claims 3, 17-19, 27-28, and 31-32 under 35 U.S.C § 103(a) as being allegedly unpatentable over Maissel in view of Logan et al. (U.S. Patent Application Publication 2006/0218579). This rejection is moot with regard to canceled claims 17, 19, 27-28 and 31-32 and is respectfully traversed with regard to claims 3 and 18.

Claims 3 and 18 are dependent from claims 1 and 11, respectively, and thus define over the Maissel reference for at least the reasons set forth above with regard to the rejection under 35 U.S.C. § 102(e). Moreover, Logan does not provide any teaching or suggestion to address those features not taught or suggested by Maissel. Thus, any alleged combination of Maissel and Logan, assuming such a combination were possible and one were somehow motivated to attempt such a combination, would not result in the invention as recited in independent claims 1 and 11 being taught or suggested. Thus,

since claims 3 and 18 incorporate all of the features of their respective independent claims, the alleged combination of Maissel and Logan would also not teach or suggest the features of these claims as well, at least by virtue of their dependency.

Logan is directed to an apparatus and method for broadcast monitoring. The apparatus and method allow for the editing of content of a broadcast programming signal to provide a proprietary program signal that has been tailored to the preferences of an individual monitoring the broadcast programming signal. While Logan teaches to mark portions of a broadcast signal so as to be able to edit it, there is no teaching or suggestion in Logan regarding both a RTSS and PSS being provided, a RTSS being generated based on real time monitoring of broadcast programming being presented in real time, a PSS being generated based on a playback of at least one portion of a recording of broadcast programming, the RTSS being used to generate the local action signal/control the presentation in response to the broadcast programming being presented to the user via the viewer in real time, or the PSS being used to generate the local action signal/control the presentation in response to the broadcast programming being presented to the user via the viewer as a playback of the stored broadcast programming. Just as with Maissel, Logan does not provide two screening signals, a real time screening signal (RTSS) and a non-real time screening signal (PSS) that are used to provide a presentation of the broadcast programming based on whether or not the broadcast programming is being presented in real time or as a playback of a recording.

In view of the above, Applicant respectfully submits that Maissel and Logan, whether taken alone or in combination, do not teach or suggest the features of independent claims 1 and 11 from which claims 3 and 18 depend. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 3 and 18 under 35 U.S.C. § 103(a).

## **VI. Newly Added Claims**

Claims 34-56 are added by this Response to recite additional features of the present invention. Support for the addition of claims 34-56 may be found at least at page 24, line 3 to page 29, line 23 and Figures 1-2. No new matter has been added by the

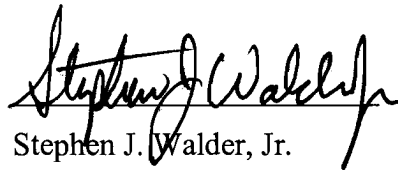
addition of claims 34-56. None of the features of claims 34-56 are taught or suggested by the references Maissel and Logan, whether taken alone or in combination. Prompt and favorable consideration of claims 34-56 is respectfully requested.

**VII. Conclusion**

It is respectfully urged that the subject application is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

DATE: December 20, 2007

A handwritten signature in black ink, appearing to read "Stephen J. Walder, Jr.", written over a horizontal line.

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